IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 13983 of 2026 &

WMP.Nos.15245 & 15249 of 2026

SVR Developers
Chennai

..Petitioner(s)

Vs

The Assistant Commissioner (FAC),
Avadi Assessment Circle,
No.32, 1st Floor, Integrated C.T Buildings,
Chennai-600 003Chennai

..Respondent(s)

Prayer : Writ Petition filed under Article 226 of the Constitution of India to call for the records relating to the Impugned Order vide FORM GST DRC - 07 bearing Reference Number ZD3304241610105 dated 22.04.2024 in GSTIN 33AALFT1108R1/2018-19, passed by the Respondent herein, to quash the same.

For Petitioner(s): Mr.Shiva Kumar G

For Respondent(s): Mrs.K.Vasanthamala, Government Advocate

ORDER

Mrs.K.Vasanthamala, learned Government Advocate takes notice for Respondent.

2. This Writ Petition is being disposed of at the stage of admission itself with the consent of the learned counsel for the Petitioner and the learned Government Advocate for Respondent.

3. In this Writ Petition, the Petitioner has challenged the impugned Order Impugned Order vide FORM GST DRC - 07 bearing Reference Number ZD3304241610105 dated 22.04.2024 in GSTIN 33AALFT1108R1ZV/2018-19 passed by the respondent.

4. The learned counsel appearing for the petitioner would submit that the petitioner is merely renting of immovable property with a rental and Amenities income of Rs.2,22,23,189/- and Rs.74,08,604/- respectively totally to Rs.2,96,32,793/- on which applicable GST has already been paid and since the petitioner is not undertaking any business, he was under the bonafide belief that GSTR-09 Annual Return is inapplicable and GSTR-9C is inapplicable as the aggregate turnover is less than Rs.5 Crore. In the absence of any reply filed by

the petitioner, the proposal in the the show cause notice has been confirmed by the impugned Order.

5. The issue is now covered by the decision of this Court in ***Ms.Kandan Hardware Mart*** Vs. ***The Assistant Commissioner (ST)(FAC)*** in **W.P.No.27029 of 2023** vide order dated **02.01.2026**. Operative portion of the said order reads as under:-

> *"205. The Division Bench of the Himachal Pradesh High Court in the case of **M/s.R.T.Pharma** Vs. **Union of India and others,** while dealing with a similar issue arising out of delay in filing of the **"Annual Returns"** in GSTR-9 under Section 39 of the respective GST Enactments held that it would be unjust to deny a **"Late Fee"**, waiver to a taxpayer who filed their Goods and Services Tax (GST) Annual Returns (GSTR-9 and GSTR-9C) before a specific Amnesty Notification was issued in **Notification No.7/2023-Central Tax** dated **31.03.2023**, and was amended by **Notification No.25/2023-Central Tax** dated **17.07.2023**.*
>
> *206. Therefore, the benefit of the above Notifications namely **Notification No.7/2023- Central Tax** dated **31.03.2023** as amended by **Notification No.25/2023-Central tax** dated **17.07.2023** has to be extended to all those Petitioners in **Table – 4A** who had filed the returns before **01.04.2023.***
>
> *207. Since these Petitioners are liable to pay **"Late Fee"**, the question of imposing **"General Penalty"** under Section 125 of the respective GST Enactments cannot be countenanced in view of the reasons that **"General Penalty"** under Section 125 of the respective GST Enactments can be imposed only in the absence of 'any other penalty' under the respective GST Enactments.*
>
> *208. It is therefore held that the Petitioners in **Table-4A** are neither liable for **"Late Fee"** over and above Rs.10,000/- under each of the respective GST Enactments nor liable for **"General Penalty"** under Section 125 of the respective GST Enactments.*

*209. As far as the case of Petitioners in **Table-4B** namely the Petitioners in W.P.No.19967 of 2023 and W.P.Nos.23356, 30854, 9867 of 2024 and W.P.Nos.47726, 38007, 48941 of 2025 are concerned, they have been subjected to only **"Late Fee"** under Section 47(2) of the respective GST Enactments. They have not been subjected to **"General Penalty"** under Section 125 of the respective GST Enactments.*

*210. Since these Petitioners have also filed the **"Annual Returns"** before **01.04.2023**, they cannot be subjected to **"Late Fee"** over and above **Rs.10,000/-** under each of the respective GST Enactments as ordered in the case of those Petitioners in **Table-4A**.*

*211. As far as the case of Petitioner in **Table-4C** namely the Petitioner in W.P.No.3915 of 2024 is concerned, the said Petitioner has filed the **"Annual Return"** only on **19.01.2024** for the Tax Period 2020-2021. It was within the time under Section 44(2) of the respective GST Enactments as the said date would have expired on **31.12.2024**. However, there is no scope for granting any waiver from payment of **"Late Fee"** under section 47 of the respective GST Enactments, as it was long after the date specified in Section 44(1) of the respective GST Enactments read with Rule 80(1) of the respective GST Rules. The said Petitioner has been imposed with **"General Penalty"** of Rs.25,000/- each under Section 125 of the respective GST Enactments. There is no scope for imposing **"General Penalty"** under Section 125 of the respective GST Enactments for the reasons stated for the other Petitioners. Therefore, to that extent W.P.No.3915 of 2024 deserves to be allowed.*

212. In the result,

*(i)W.P.Nos.3540, 3567, 3570, 3902 and 3966 of 2024 as detailed in **Table-3** are allowed. Therefore, **"General Penalty"** imposed under Section 125 of the respective GST Enactments on these Petitioners are set aside.*

*(ii)W.P.Nos.27029, 27032, 27036, 32599, 34352, 34357, 35186 of 2023 and W.P.Nos.3572, 3916, 15690 of 2024 and W.P.Nos.9988, 28786, 42416, 46522 of 2025 as detailed in **Table-4A** are allowed. Therefore, **"General Penalty"** imposed under Section 125 of the respective GST Enactments on these Petitioners are set aside. These Petitioners*

*are liable to pay a **"Late Fee"** of **Rs.10,000/-** under the respective GST Enactments.*

*(iii)W.P.No.19967 of 2023 and W.P.Nos.23356, 30854, 9867 of 2024 and W.P.Nos.47726, 38007, 48941 of 2025 as detailed in **Table-4B** are allowed. These Petitioners are liable to pay a **"Late Fee"** of **Rs.10,000/-** under the respective GST Enactments.*

*(iv) W.P.No.3915 of 2024 in **Table-4C** is partly allowed. However, imposition of **"General Penalty"** under Section 125 of the respective GST Enactments is set aside in view of imposition of **"Late Fee"** against the Petitioner.*

(v) No costs. Consequently, all connected Writ Miscellaneous Petitions are closed."

6. In view of the order of this Court in ***Ms.Kandan Hardware Mart*** Vs. ***The Assistant Commissioner (ST)(FAC)*** referred to supra, imposition of Late Fee under Section 47 of the respective GST enactments in excess of Rs.10,000/- each under CGST and SGST and the General Penalty under Section 125 of the respective GST enactments, the impugned Order is set aside and the petitioner shall voluntarily pay the admitted liability of the tax amount in cash or from the Petitioner's Electronic Cash Register within a period of thirty (30) days from the date of receipt of a copy of this order. On such deposit being made, the respondent shall lift the attachment of the Petitioner's bank account, if the Petitioner not being in arrears of any other amount for any other tax period barring the amount demanded under the impugned Order. Further the proceedings initiated under section 78 of the CGST Act shall be kept in abeyance for a period of three months pending further Orders from the respondent.

7. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

15-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

vrc

To

The Assistant Commissioner (FAC),
Avadi Assessment Circle,
No.32, 1st Floor, Integrated C.T Buildings,
Chennai-600 003Chennai.

C.SARAVANAN, J.

vrc

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